

APPEAL NO. 031343  
FILED JULY 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 8, 2003. With respect to the issue before her, the hearing officer determined that the appellant's (claimant) impairment rating (IR) is 8% as certified by Dr. T, the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In her appeal, the claimant argues that the hearing officer erred in giving presumptive weight to the designated doctor's report and asks that we adopt her treating doctor's 16% IR. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that the claimant reached maximum medical improvement on August 1, 2002; and that Dr. T was selected by the Commission to serve as the designated doctor. On August 1, 2002, Dr. T examined the claimant and issued his Report of Medical Evaluation (TWCC-69), wherein Dr. T assigned the claimant an IR of 8%.

We note that because Dr. B, the carrier's required medical examination doctor, performed the first certifying examination in this case after October 15, 2001, he improperly used the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides, third edition) to determine the claimant's IR. Neither party complains about Dr. B's use of the wrong version of the AMA Guides and we perceive no error in that the record reflects that in accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.1(c)(2)(B)(i) (Rule 130.1(c)(2)(B)(i)), the treating doctor and the designated doctor properly used the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000) (AMA Guides, fourth edition) to calculate the claimant's IR.

The claimant asserts that the hearing officer's decision is against the great weight of the evidence. At the hearing the claimant alleged that Dr. T did not consider both of the claimant's upper extremities in his evaluation. However, in his narrative report, Dr. T indicates that both upper extremities were considered in his impairment assessments. He found 0% impairment to the claimant's right wrist and 8% impairment to the left wrist.

The hearing officer did not err in giving presumptive weight to the designated doctor's report, and in determining the claimant's IR in accordance with that report. The difference in the ratings of the treating doctor and the designated doctor is attributable to the fact that the designated doctor determined that there were no specific disorders

for the right upper extremity that would be ratable. We cannot agree that the treating doctor's report constitutes the great weight of the other medical evidence contrary to the designated doctor's report. Rather, this is a case where there is a genuine difference of medical opinion between the designated doctor and the treating doctor as to whether the claimant has a ratable impairment to the right upper extremity. We have long held that by giving presumptive weight to the designated doctor, the 1989 Act provides a mechanism for accepting the designated doctor's resolution of such differences. Texas Workers' Compensation Commission Appeal No. 001659, decided August 25, 2000; Texas Workers' Compensation Commission Appeal No. 001526, decided August 23, 2000. Accordingly, the hearing officer did not err in giving presumptive weight to the designated doctor's report and adopting the 8% IR.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ST PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Veronica Lopez-Ruberto  
Appeals Judge